UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

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JOHN W. JOHNSON, et al., : CASE NO. 5:05CV2155

Plaintiffs,

vs. : OPINION & ORDER

: [Resolving Doc. No. 16]

COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION

Defendant.

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## JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

With this Order, the Court decides whether to adopt the Magistrate Judge's Report and Recommendation that the Court deny the Plaintiffs' petition for an award of attorney fees and expenses pursuant to the Equal Access to Justice Act ("EAJA"). [Doc. 16.] For the reasons presented below, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge and **DENIES** the Plaintiffs' petition.

## I. Background

On May 18, 2007, the Plaintiffs petitioned the Court for an award of attorney fees and expenses pursuant to the EAJA. [Doc. 16.] On June 6, 2007, the Court referred the Plaintiffs' petition to Magistrate Judge Limbert for a Report and Recommendation. [Doc. 18.] On July 19, 2007, Magistrate Judge Limbert completed his Report and recommended that the Court deny the Plaintiffs' petition. [Doc. 20.] Neither party objects to the Magistrate's Report and Recommendation.

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II. Legal Standard

The Federal Magistrates Act requires a district court to conduct a de novo review only of

those portions of the Report to which an objection has been made. See 28 U.S.C. § 636(b)(1). Any

objections must be filed with the Clerk of Court within ten days of the report's issuance. *Id.* Parties

waive their right to appeal the Recommendation if they fail to object within the time allowed. See,

e.g., Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

III. Analysis

Here, more than ten days have elapsed from the issuance of Magistrate Judge Limbert's

Report and Recommendation and neither party objects to the Recommendation. Having conducted

its own review of the facts and findings in the case, the Court agrees with the conclusion of the

Magistrate Judge. Therefore, the Court incorporates the Magistrate Judge's findings of fact and

conclusions of law fully herein by reference. Accordingly, the Court denies the Plaintiffs' petition

for an award of attorney fees and expenses pursuant to the Equal Access to Justice Act.

IV. Conclusion

For the reasons discussed above, the Court **ADOPTS** the Report and Recommendation of

the Magistrate Judge and **DENIES** the Plaintiffs' petition.

IT IS SO ORDERED.

Dated: August 7, 2007

James S. Gwin

JAMES S. GWIN

UNITED STATES DISTRICT JUDGE

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